

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:11cr72**

UNITED STATES OF AMERICA,)	
)	
)	
Vs.)	ORDER
)	
CHARLIE WAYNE BRYANT.)	
)	
)	

THIS MATTER is before the court on defendant's pro se letter (#48) to the court dated October 29, 2012, and filed October 31, 2012. In that letter, defendant - - in less than a week after sentencing - - complains about the services of his present attorney, seeks to advise the court that it was wrong in its application of the law at sentencing, states that he would have been better off with prior counsel, claims it was the officer at the Social Security Office that assaulted him, and states “[s]ir there was no factual bases [sic]. You done me wrong with 2A2.4.” Letter, at 1. Defendant concludes by stating “ . . . I want to appeal.”

Id., at 2.

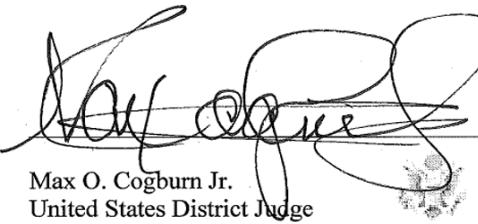
While the court can discern no relief it can afford defendant based on such letter, the court will determine whether such letter should be considered a Notice of Appeal. Rule 3(c) (1) of the Federal Rules of Appellate Procedure requires that a notice of appeal contain: (1) the party taking the appeal; (2) the judgment, order, or part thereof being appealed; and (3) the name of the court to which the appeal is taken. While those aspects of filing a notice of appeal are mandatory and jurisdictional, Torres v. Oakland Scavenger Co., 487 U.S. 312, 317 (1988), Rule 3(c)(4) goes on to provide that an “appeal must not be dismissed for informality of form or title of the notice of appeal, or for failure to name a party whose intent to appeal is otherwise clear from the notice.” Inasmuch as defendant has stated “I want to appeal” in

a document filed with this court, the court deems such to be a Notice of Appeal and will instruct the Clerk of Court to construe such letter as defendant's "Notice of Appeal."

ORDER

IT IS, THEREFORE, ORDERED that the letter dated October 29, 2012, and filed as document #48 is deemed to be the functional equivalent of a Notice of Appeal, and the Clerk shall take the appropriate action pursuant to Rule 3(d) as if the defendant's October 29, 2012, letter had been styled as a Notice of Appeal.

Signed: November 13, 2012



Max O. Cogburn Jr.
United States District Judge